

### REMARKS

The comments of the applicant below are each preceded by related comments of the examiner (in small, bold type).

4. Claims 1,2-4, 5, 6-8, 26, are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel et al. (U.S. Patent No. 6,865,185 B1) in view of Patel (U.S. Patent No. 6,850,764 B1), and in further view of Haddock et al. (U.S. Patent No. 6,104,700).

\*\*\*

However, the combined system (Patel (6865185) - Patel (6850764)) is silent to disclosing Controlling an order in which the outbound packets are transmitted to the recipients based on a degree to which an average forwarding percentage for the service class associated with each of the received data packets corresponding to the outbound packets falls below a minimum average forwarding percentage rate assigned to the respective service class.

Haddock et al. discloses Controlling an order in which the outbound packets are transmitted to the recipients based on a degree to which an average forwarding percentage for the service class associated with each of the received data packets corresponding to the outbound packets falls below a minimum average forwarding percentage rate assigned to the respective service class (col. 8, lines 10-14, minimum bandwidth) (col. 10, lines 15-20, those QoS queues that have a current bandwidth that is below their minimum bandwidth).

Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the combined system (Patel (6865185) - Patel (6850764)) with the teaching of Haddock to control an order in which the outbound packets are transmitted to the recipients based on a degree to which an average forwarding percentage for the service class associated with each of the received data packets corresponding to the outbound packets falls below a minimum average forwarding percentage rate assigned to the respective service class in order to employ weighted fair queuing delivery schedule which shares available bandwidth.

Claim 1 has been amended. None of the cited references, alone or in combination, describe or would have made obvious a system in which the “degree to which an order [of packets] varies” is based on the degree to which an average forwarding percentage falls below a minimum average forwarding percentage.

Haddock changes the order of packets based on whether or not the current bandwidth is below a minimum, a yes or no evaluation (see col. 11, lines 20-36, 49-55). In contrast, in the claimed method, the *degree* to which the order is changed depends in part on the *degree* to which the average forwarding percentage is below the minimum. Such a flexible approach based on

degrees and percentages provides an advantage in wireless systems, in which the total available bandwidth may vary.

The applicant also notes that the purported reason identified by the examiner to combine Haddock with Patel '185 and Patel '764 is merely the outcome of the hypothetical combination, not a reason to make the combination in the first place.

Claim 26 has been amended and is patentable for at least similar reasons as claim 1.

**33. Claims 27, 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Patel et al. (U.S. Patent No. 6,865,185 B1) in view of Haddock et al. (U.S. Patent No. 6,104,700), and in further view of Solyar et al. (6,590,890 B1).**

Claim 27 has been amended and is patentable for at least similar reasons as claim 1.

All of the dependent claims are patentable for at least the reasons for which the claims on which they depend are patentable.


Canceled claims, if any, have been canceled without prejudice or disclaimer.

Any circumstance in which the applicant has (a) addressed certain comments of the examiner does not mean that the applicant concedes other comments of the examiner, (b) made arguments for the patentability of some claims does not mean that there are not other good reasons for patentability of those claims and other claims, or (c) amended or canceled a claim does not mean that the applicant concedes any of the examiner's positions with respect to that claim or other claims.

The required amount of \$125 for the excess claim fee is being paid concurrently herewith on the Electronic Filing System (EFS) by way of Deposit Account authorization. Please apply all charges or credits to Deposit Account No. 06-1050, referencing attorney docket no. 12144-004001.

Respectfully submitted,

Date: 5-17-07

  
Misha Kim Hill  
Reg. No. 59,737

Fish & Richardson P.C.  
225 Franklin Street  
Boston, MA 02110  
Telephone: (617) 542-5070  
Facsimile: (617) 542-8906